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7590

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EXAMINER

AKPATI, ODAICHE T

ART UNIT

PAPER NUMBER

2135

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/701,790

Applicant(s)

PERE, PAUL

Examiner

Tracey Akpati

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-24 are pending. Claim 1 has been amended. The attorney's remarks are traversed below.

Response to Arguments

Applicant's arguments filed 8/23/2004 have been fully considered but they are not persuasive.

2. *The attorney argues that the extreme significant difference between the primary reference which is not met by Carter is that of subparagraph "b" of Claim 1.* This limitation is met by Shultz on page 2, lines 28-30 and on page 3, lines 1, 12-14. The reason that the subscriber's information is secure is because it is password protected and is additionally stored on a distinctive WWW address known only to the subscriber. The access rights disclosed in the limitation is dictated by the subscriber of a third party as can be further seen on page 4, lines 28-30 and on page 5, lines 1-3. The technician (a third party) is provided with an alternate password from the subscriber's.

3. *The attorney argues that Shultz includes no teaching that would suggest that data is stored only once.* Shultz discloses this on page 2, lines 28-30 and on page 3, lines 12-14. The subscriber's data is stored within the GEMR directory. There is no teaching within the cited reference that suggests the subscriber's data as being stored more than once within this circumstance. Hence this limitation is fully met by the reference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16, 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schultz et al (WO 98/15910) in view of Carter (5787175).

With respect to Claim 1, Shultz et al meets the limitation of “a method for secured access to data in a network including an information center and a plurality of data area access systems in which permission to store said data and to define at the information center, access rights of third parties to said data is limited to the owner of rights to said data” on page 3, lines 1-9, 26-30; and “in each case storing the data only once in one of said data area access systems not accessible to the owner of the rights” on page 2, lines 28-30, page 3, lines 1, 12-14; and “registering the presence of data of a certain type in each data area access system at said information center, followed by the owner of the rights to the stored data, should he wish, defining access rights of third parties to said data at said information center” is met on page 2, lines 28-30 and page 3, lines 26-28; and “transmitting a list of the data present of a certain type, specifying the data area access system storing said data, from said information center to a requesting data area access system” is met inherently by page 5, lines 3-5; and on page 4, lines 18-25; and “directly transmitting said data of said certain type by said data area access system storing said data to said requesting data area access system subject to said data area access system storing said data having received a confirmation from said information center” on page 3,

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lines 20-23 and 26-30 and on page 4, lines 1-4. The password and WWW address verification inherently discloses a confirmation signal being sent from the information center. This is because the information center verifies the password and WWW address and must send a signal to communicate a successful verification to the data access system. Schultz however does not meet the limitation disclosed below.

The limitation of “the access rights of said requesting data area access system correspond to the access rights defined at said information center for said data” is met by Carter on column 3, lines 31-42.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Carter within the system of Schultz because an access list that is modifiable by the user can help the user prevent someone who already had previous access from gaining future access to his medical record. This hence gives the user more control over who he/she wants to view his/her medical records.

With respect to Claim 2, the limitation of “wherein an authorization of the storage of data and of the definition of the access rights of third parties to the data takes place by means of an identity check of the owner of the rights to the data” is met by Shultz et al on page 44, lines 19-30 and page 45, lines 1-7. The password authentication is the identity check for the user.

With respect to Claim 3, the limitation of “wherein data to be stored are stored in said data area access system with an electronic form which contains the type of the data” is met by Shultz et al on page 44, lines 15-19.

With respect to Claim 4, the limitation of “wherein a data area access system storing data responds to a request for certain data of a certain type by a requesting data area access system by verifying the access rights through an inquiry to the information center as to whether the requesting data area access system has access rights to the certain data of a certain type” is met by Shultz et al on page 4, lines 28-30 and on page 5, line 1. The technician’s password verifies his unique access rights to the information center.

With respect to Claim 5, the limitation of “wherein a data area access system receiving certain data of a certain type allows access to the received data only directly after a respective reception of said data” is met by Shultz et al on page 3, lines 29-30 and on Fig. 4. Access is allowed to the user after his password and a distinctive WWW address are verified.

With respect to Claim 6, the limitation of “wherein a data area access system storing certain data of a certain type grants access to the certain data of a certain type only if a positive verification has taken place through an inquiry to the information center as to whether said data area access system storing said certain data of a certain type can show access rights for said certain data of a certain type” is met by Shultz et al on page 4, lines 28-30. The password and WWW address form the certain data that show access rights for the data to be accessed. The technician has a different password from the physicians and hence a different access right applies to him than for any other worker.

With respect to Claim 7, the limitation of “wherein the information center is notified by a data area access system having new data about the presence of new data of a certain type, whereupon said information center sends a notifying confirmation to the data area access system” is met by Shultz et al on page 4, lines 18-25. The subscriber or physician can update the patient’s records.

With respect to Claim 8, the limitation of “wherein said data are identified on the basis of an identification which is allocated as a unique identification by said information center and is transmitted by said information center after a registration of new data to the data area access system storing said data, in order for said system to append the respective identification to the respective data” is met by Shultz et al on Fig. 3B. The network address is the identification sent after the user registers.

With respect to Claim 9, the limitation of “wherein after an inquiry for data of a certain type by a data area access system, said information center prepares a list of all the data present of this certain type before it verifies the access rights to the data of the certain type, in order to transmit the list of data present of this certain type, specifying the data area access system respectively storing these data, to the requesting data area access system for which the requesting data area access system can show said access rights” is met by Shultz et al on page 42, lines 12-25, and page 44, lines 1-4.

With respect to Claim 10, the limitation of “wherein when data access is desired by a data area access system to data of a certain type, firstly a request for such data of the certain type is sent to the information center” is met by Shultz et al on page 42, lines 12-15.

With respect to Claim 11, the limitation of “wherein when data transmission is desired from a data area access system storing data to a requesting data area access system, firstly a request for certain data of a certain type is sent by the latter system to the data area access system storing these certain data of a certain type” is met by Shultz et al on page 42, lines 12-15.

With respect to Claim 12, the limitation of “wherein the data in a data area access system are stored in a secure data memory, no direct access being possible to the data stored therein” is met by Shultz et al on page 11, lines 8-23.

With respect to Claim 13, the limitation of “wherein the type of the data is determined by their content and/or the owner of the rights to the data” is met by Shultz et al on page 3, lines 26-30.

With respect to Claim 14, all the limitation is met by Shultz et al except the limitation disclosed below.

The limitation of “wherein the access rights to stored data can be defined by the owner of the rights to the data at any point in time after their registration at the information center and, after that, can be changed again as desired by a re-definition by the owner of the rights to the data” is met by Carter on column 3, lines 31-42.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Carter within the system of Schultz because this allows the user more control over who can view his information. He can use this control to prevent a physician who already had access in the past from having access in the future due to personal reasons.

With respect to Claim 15, the limitation of “wherein the access rights to stored data can be granted by the owner of the rights to the data when they are stored in a data area access system” is met by Shultz on page 4, lines 14-17. This is achieved by the user sharing his password with any medical establishment of his choice.

With respect to Claim 16, the limitation of “wherein communication between a data area access system and the information center or another data area access system takes place in encrypted form” is obvious because encryption is a well known method of making data undecipherable to a common eye. The examiner takes official notice on the encryption of a patient’s medical records because by law, a user’s medical records cannot be sent out in clear, because this is confidential/secret information. Hence this will necessitate encryption, by law.

With respect to Claim 21, the limitation of “wherein a participant accessing the network must authorize himself and his identity is verified by the information center” is met by Shultz on page 44, lines 19-30 and on page 45, lines 1-7. The password and WWW authentication reveals this.

With respect to Claim 23, the limitation of “wherein the permission for storing the data is given by the owner of the rights to the data at the latest when the data are registered at the information center, said information center not allowing any subsequent data access to these data without correct authorization” is met by Shultz on page 44, lines 19-30 and on page 45, lines 1-7 and on Fig. 3A and 4.

Claims 17-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schultz et al (WO 98/15910) in view of Carter (5787175) in further view of Chen et al (5694471).

With respect to Claim 17, all the limitation is met by the combination of Schultz et al and Carter except for the limitation disclosed below.

The limitation of “wherein the sender provides the information sent by him with a digital signature by means of a secret signature code, whereby the recipient can verify the sent information by means of an associated public signature code” is met by Chen on column 2, lines 9-39.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Chen within the combination of Shultz et al and Carter because a digital signature is a commonly used, well known method for authenticating the sender of an information, and hence validate the sender's integrity to the receiver.

With respect to Claim 18, all the limitation is met by the combination of Schultz et al and Carter except for the limitation disclosed below.

The limitation of “wherein the sender encodes all transmitted data by means of a public encryption code issued by the recipient, whereby only the recipient can decode the transmitted data by means of a secret encryption code” is met Chen on column 1, lines 40-51.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Chen within the combination of Schultz et al and Carter because public key encryption is a well known means for encrypting data, whereby either side has a different encryption key. Public key encryption is utilized by RSA, a well known encryption scheme.

With respect to Claim 19, all the limitation is met by the combination of Schultz et al and Carter except for the limitation disclosed below.

The limitation of “wherein not only each data area access system and the information center but also each participant has a secret signature code and a secret encryption code and a public signature code and a public encryption code” is met by Chen on column 1, lines 40-51 and on column 1, lines 6-22. The public signature code is obvious from the private signature code because it will be needed to decrypt the encrypted signature.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Chen within combination of Shultz et al and Carter because of the reasons stated above for Claims 17 and 18.

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With respect to Claim 20, all the limitation is met by the combination of Schultz et al and Carter except for the limitation disclosed below.

The limitation of “wherein the secret signature codes and encryption codes and/or public signature codes and encryption codes of a participant are stored on a data carrier, such as a smart card” is met by Chen on column 3, lines 52-62.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Chen within the combination of Shultz et al and Carter because of the reasons stated above for Claims 17 and 18.

With respect to Claim 22, all the limitation is met by the combination of Schultz et al and Carter except for the limitation disclosed below.

The limitation of “wherein the identity of a participant is stored on a data carrier such as a smart card” is met by Chen on column 2, lines 9-15.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Chen within the combination of Schultz et al and Carter because this would lead to a quicker user authentication since the information center need not be contacted to authenticate the user, but simply by authenticating the user by insertion of a smart card to a reader/terminal.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schultz et al (WO 98/15910) in view of Carter (5787175) in further view of Auerbach et al (5673316).

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With respect to Claim 24, all the limitation is met by the combination of Schultz et al and Carter except the limitation of an electronic watermark used for authentication.

This is met by Auerbach et al on column 4, lines 40-42. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Auerbach et al within the combination of Schultz et al and Carter because watermarking is a well known method of copy protection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tracey Akpati whose telephone number is 571-272-3846. The examiner can normally be reached on 8.30am-6.00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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